

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Corporation
Renewable Resource Cost Recovery Rider 2009
Tariff

Case No. PU-08-742

Otter Tail Corporation
Electric Rate Increase
Application

Case No. PU-08-862

AFFIDAVIT OF SERVICE REGULAR OR ELECTRONIC MAIL

STATE OF NORTH DAKOTA
COUTY OF BURLEIGH

Janet Marquart deposes and says that:

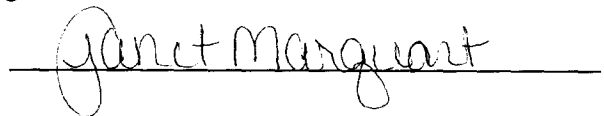
she is over the age of 18 years and not a party to this action and, on the 4th day of **December, 2009**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope by regular mail, with postage fully prepaid, securely sealed; and electronically mailed to 23 addresses, an electronic copy of:

Order on Settlement

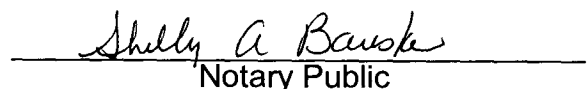
The envelopes and electronic mails respectively were addressed as follows:

See attached list.

Each post office address shown is the respective addressee's last reasonably ascertainable post office address and each email address is the respective addressee's last reasonably ascertainable electronic mailing address.

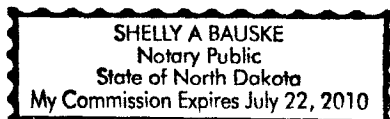


Subscribed and sworn to before me
this 4th day of **December, 2009**.



Notary Public

SEAL



110 PU-08-742 Filed: 12/4/2009 Pages: 49
Affidavit Regular, Email – Order on Settlement

135 PU-08-862 Filed 12/04/2009 Pages: 49
Affidavit Regular, Email – Order on Settlement
Public Service Commission

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**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Otter Tail Corporation
Renewable Resource Cost Recovery Rider 2009
Tariff**

Case No. PU-08-742

**Otter Tail Corporation
Electric Rate Increase
Application**

Case No. PU-08-862

ORDER ON SETTLEMENT

November 25, 2009

Appearances

Commissioners Kevin Cramer, Tony Clark, and Brian P. Kalk.

Bruce Gerhardson, Associate General Counsel, Otter Tail Power Company, 215 South Cascade Street, Fergus Falls, Minnesota 56537, attorney for Otter Tail Power Company (formerly known as Otter Tail Corporation).

Richard J. Savelkoul, Felhaber, Larson, Fenlon & Vogt, USB Plaza, 444 Cedar Street, Suite 2100, St. Paul, Minnesota 55101-2136, attorney for the Large Industrial Group.

Annette Bendish, Legal Counsel, Public Service Commission, 600 E. Boulevard Ave, Department 408, Bismarck, North Dakota, 58505-0480, attorney for the Advocacy Staff.

Illona A. Jeffcoat-Sacco, General Counsel, Public Service Commission, 600 E. Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, attorney for the Public Service Commission.

Al Wahl, Administrative Law Judge, Office of Administrative Hearings, 1701 North Ninth Street, Bismarck, North Dakota 58501-1882, appearing as hearing officer.

Preliminary Statement

Case No. PU-08-742

On September 2, 2008, Otter Tail Corporation (Otter Tail) filed an application for approval of its 2009 Renewable Resource Cost Recovery Rider (Rider) and an advance determination of prudence for its 48 MW ownership share in the Ashtabula Wind Energy Center, Case No PU-08-742. The Rider filing was Otter Tail's first annual filing of its

134 PU-08-862 Filed: 11/25/2009 Pages: 45
Order on Settlement

109 PU-08-742 Filed: 11/25/2009 Pages: 45
Order on Settlement

Renewable Resource Rider approved by the Commission in an Order dated May 21, 2008 in Case No. PU-06-466. Case No. PU-06-466 addressed the methodology for cost recovery of Otter Tail's 40.5 MW ownership share of the Langdon Wind Energy Center (Langdon).

This first annual filing made on September 2, 2008 updated the Commission on costs and other information related to Langdon and also requested approval for Otter Tail to recover costs associated with an additional renewable energy investment, a 48 MW ownership share in the Ashtabula Wind Energy Center (Ashtabula) located near Lake Ashtabula in Barnes County, North Dakota.

The effect of the Rider on a typical residential customer consuming 750 kilowatt-hours is \$3.82 per month.

On November 20, 2008, the Commission issued a Notice of Opportunity for Hearing. Written comments and a request for hearing were received from the North Dakota Large Industrial Energy Group, comprised of Goodrich Corporation, Cargill Corporation, Cavendish Farms, Inc., Archer Daniels Midland Company, ComDel Innovation, and Tharaldson Ethanol LLC. They indicated their intention to litigate the issues and asked that the Commission combine this case for hearing with the pending rate increase application filed by Otter Tail in Case No. PU-08-862, or hear the two matters on a schedule that allows the North Dakota Large Industrial Energy Group to more easily participate in both.

On January 14, 2009, intervention was granted to the North Dakota Large Industrial Energy Group. The Commission also ordered the hearing on Case No. PU-08-742 combined with the hearing on the pending rate increase application, Case No. PU-08-862, and approved the Rider on an interim basis, subject to review and revision as a result of the combined hearing.

Case No. PU-08-862

On November 3, 2008, Otter Tail filed a Notice for Change in Rates for Electric Service under North Dakota Century Code Section 49-05-05 and North Dakota Administrative Code Section 69-09-02-01. Otter Tail proposes a \$6.084 million or 5.14 percent increase in its annual North Dakota electric revenues. The proposed rates would affect Otter Tail's service to all of its approximately 57,000 retail electric customers in the State of North Dakota.

Concurrent with the Notice, the Company submitted an Alternative Petition for Interim Rates. The proposed interim increase, which would impact only base rates, was for \$4,810,562, or 4.07 percent, to be effective January 2, 2009 in the event the Commission suspended the proposed general increase. The proposed interim increase

and rate design were submitted pursuant to the criteria set forth in North Dakota Century Code section 49-05-06.

On November 20, 2008, the Commission suspended Otter Tail's general rate increase filing.

On December 3, 2008, the Commission issued an Order on Interim Rates authorizing Otter Tail to collect interim rates in the amount of \$4,810,562 or 4.07 percent, to be placed into effect January 2, 2009, subject to refund.

On December 17, 2008 the Commission issued a Notice of Hearing, Public Input Sessions and Intervention Deadline in Case No. PU-08-862, scheduling Public Input Sessions to be held via interactive television on February 10, 2009 and March 23, 2009 at 12:00 noon central time at locations in Devils Lake, Jamestown, Washburn, Wahpeton, and Bismarck. The notice set forth a deadline of February 27, 2009 for parties to intervene in the case and scheduled a formal hearing to begin April 27, 2009.

On December 30, 2008, the Large Industrial Group, consisting of the Goodrich Corporation, Cargill Corporation, Cavendish Farms, Inc., Archer Daniels Midland Company, ComDel Innovation and Tharaldson Ethanol LLC, filed a Petition to Intervene with the Commission.

On January 14, 2009, intervention was granted to the North Dakota Large Industrial Energy Group. The Commission also ordered the hearing on Case No. PU-08-742 combined with the hearing on the pending rate increase application, Case No. PU-08-862, and approved the Rider on an interim basis, subject to review and revision as a result of the combined hearing.

The February 10, 2009 public input session was cancelled due to inclement weather.

On February 20, 2009, Otter Tail Corporation d/b/a Otter Tail Power Company, entered into a partial settlement agreement with the North Dakota Public Service Commission Advocacy Staff. The North Dakota Large Industrial Group did not oppose the partial settlement. The Partial Settlement includes:

- (a) a 10.75 percent return on equity and 8.62 percent overall rate of return for determining revenue requirements in this proceeding; and
- (b) an earnings sharing mechanism under which net income exceeding 10.75% return on equity for any fiscal year prior to either 2011 or the test year included in Otter Tail's next general rate case, whichever occurs sooner, is applied to customer accounts.

Case No. PU-08-742 and Case No. PU-08-862

On March 11, 2009, the Commission issued a Notice of Hearing, Notice of Continued Hearing and Notice of Public Input Session which continued the hearing on the two cases to May 11, 2009, and set forth the following issues to be considered:

1. What is the value of Otter Tail's property, used and useful, for the service and convenience of the public in North Dakota?
2. What is Otter Tail's rate of return on its property, used and useful, for the service and convenience of the public in North Dakota?
3. What is a just and reasonable rate of return on Otter Tail's property, used and useful, for the service and convenience of the public in North Dakota?
4. What rates and charges are necessary to provide a just and reasonable rate of return on Otter Tail's property, used and useful, for the service and convenience of the public in North Dakota?
5. Are Otter Tail's proposed rate schedules designed in such a manner that they result in a basis of charge to its customers that is just and reasonable without discrimination?
6. Is Otter Tail's investment in the Ashtabula Wind Energy Center prudent?
7. Should the commission approve the 2009 Renewable Resource Cost Recovery Rider as filed?
8. Should Otter Tail be permitted to recover any generation costs through a Rider?
9. Other relevant information or proposals concerning the proceedings.
10. Does the settlement provide a reasonable resolution of the issues?

On March 23, 2009, the Commission conducted public input sessions. The sessions utilized interactive video-conferencing capabilities to include participants in Devils Lake, Jamestown, Washburn and Bismarck. The Wahpeton location was rescheduled due to flooding conditions within the City of Wahpeton on March 23, 2009. On April 13, 2009, the public input session was held utilizing interactive video-conferencing capabilities in Wahpeton.

On April 23, 2009, Otter Tail filed a request to suspend the procedural schedule in order for the parties to finalize resolution of all disputed issues in this matter.

On April 29, 2009, the Commission granted Otter Tail's request to suspend the procedural schedule and continue the hearing in this matter and requested that the Administrative Law Judge issue the corresponding order. The Order Suspending Procedural Schedule and Continuing Hearing was issued on April 29, 2009.

On July 1, 2009, Counsel for Advisory Staff filed a fully executed Settlement Agreement between Otter Tail Power Company, the North Dakota Public Service Commission Advocacy Staff, and the North Dakota Large Industrial Group providing, among other things, for:

- (a) a net annual revenue increase of \$3,597,887 or 3.04% made up of:
 - a. a base revenue increase of \$6,824,405;
 - b. a fuel revenue increase of \$309,019 to recover MISO Schedule 16 and 17 deferred costs;
 - c. a fuel revenue increase of \$256,990 to recover MISO Schedule 16 and 17 ongoing costs; and
 - d. a fuel revenue decrease of \$3,792,527 to share asset based margins;
- (b) a moratorium on further electric base rate increases prior to January 1, 2011;
- (c) an earnings sharing mechanism if annual net income exceeds 10.75% return on equity;
- (d) a sharing mechanism for asset based wholesale margins that credits 85% of future margins to the fuel clause;
- (e) an annual fixed credit of \$560,000 to the base rate revenue requirement for non-asset based margins;
- (f) allocations and rate designs for base rates;
- (g) adjustments to the Renewable Resource Cost Recovery Rider;
- (h) an accounting treatment for Midwest ISO Day-2 Energy Market costs;
- (i) an annual Economic Development Cost base rate revenue requirement of \$450,000; and

- (j) an agreement that Otter Tail's investment in the Ashtabula Wind Energy Center project is prudent, and that costs related to that project are appropriate for recovery under the Renewable Resource Cost Recovery Rider.

On August 12, 2009, the Commission issued a Notice of Continued Consolidated Hearing setting a consolidated hearing for September 28, 2009.

On September 28, 2009, a hearing was held in the Commission Hearing Room at the State Capitol in Bismarck, North Dakota. At the hearing, Otter Tail explained changes that should be made to the July 1, 2009 Settlement Agreement to accommodate implementation of final rates at a date later than the parties anticipated when they executed the Settlement Agreement, and to correct minor errors.

On October 5, 2009, Counsel for Commission Advocacy Staff filed a fully executed Amended Settlement Agreement.

On October 30, 2009, in response to discussions at the first Commission work session on the case and a subsequent request from Commission Advisory Staff, Otter Tail filed a letter providing information on the economic development cost issue, asking that the filing be made a part of the record under N.D.C.C. § 28-32-25, and indicating that the North Dakota Large Industrial Group and Commission Advocacy Staff were aware of the information, stipulated to its admission into the record, and waived any right to present additional evidence or cross-examine relevant to the filing.

As a result of discussions at a second Commission work session, Commission Advisory Staff asked two questions of the parties. In a letter dated November 4, 2009, Commission Advisory Staff asked:

1. If the Commission determines that all parts of the settlement are reasonable except for Economic Development Costs and modifies or conditions approval of the Settlement Agreement to remove Economic Development Costs from the revenue requirement, would any party find the Commission decision unacceptable under Settlement Agreement paragraph VI.G?
2. If the Commission decides to modify or condition approval of the Settlement Agreement to remove Economic Development Costs from the revenue requirement, and orders a phased out removal of Economic Development Costs from the revenue requirement, what time frame would be reasonable and appropriate for that phase out and how would the phase out be reflected in end user rates?

On November 6, 2009, Otter Tail filed a joint response to Advisory Staff's letter, on behalf of itself, the North Dakota Large Industrial Energy Group and Commission

Advocacy Staff, stating they would not find such a Commission decision unacceptable under paragraph VI.G of the Settlement Agreement. The North Dakota Large Industrial Energy Group, Commission Advocacy Staff and Otter Tail also agreed that removal of Economic Development Costs from the revenue requirement could be accomplished through a reduction in rates effective January 1, 2011, and that the reduction in rates would be applied as a flat proportional reduction to all rate classes and rate schedules based on energy consumption. They further agreed that Otter Tail would make a compliance filing no later than 60 days prior to December 31, 2010, reflecting the one-time reduction and application to all rate classes and rate schedules. Finally, they stipulated that the November 6, 2009 filing be made a part of the record under N.D.C.C. § 28-32-25 and waived any right to present additional evidence or cross-examine regarding the filing.

In accord with the November 6, 2009 filing, the provision of the Amended Settlement Agreement in Section I. F. concerning Economic Development Costs should be revised to exclude the Economic Development Costs from revenue requirements effective January 1, 2011.

Having considered this matter, the Commission finds that, except for Section I. F. concerning Economic Development Costs, the October 5, 2009 Amended Settlement Agreement is reasonable and should be approved.

Order

The Commission orders:

1. Except for Section I. F. concerning Economic Development Costs, the October 5, 2009 Amended Settlement Agreement, a copy of which is attached to this Order and made a part of this Order, is APPROVED and ADOPTED.
2. Section I. F. of the Amended Settlement Agreement is revised to exclude Economic Development Costs from the revenue requirement effective January 1, 2011.
3. OTP shall file compliance tariffs consistent with this Order and the Amended Settlement Agreement to implement final rates for bills rendered on or after December 1, 2009, to yield a net annual revenue increase of not more than \$3,597,887 consistent with this Order and the Amended Settlement Agreement.
4. Interim rates approved by the Commission for bills rendered on or after January 2, 2009, will remain in effect for all customer classes until final rates are implemented. Otter Tail shall issue refunds, in the form of one-time bill credits, to customers within 90 days of the implementation of final rates. Otter Tail shall refund all interim rate amounts collected in excess of final rates, plus interest. OTP shall file a final refund report with the Commission upon completion of the refunding.

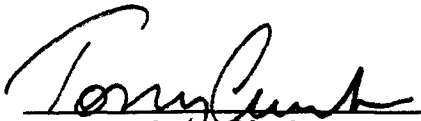
5. Otter Tail shall file a recalculated 2009 Renewable Resource Cost Recovery Rate for the Langdon Wind Energy Center and the Ashtabula Wind Energy Center consistent with this Order and the Amended Settlement Agreement.

6. Deviation from North Dakota Administrative Code section 69-09-02-39 Automatic Adjustment Clauses is permitted for inclusion of Midwest Independent Transmission System Operator (MISO) Schedule 16 and 17 costs, MISO Ancillary Services Market revenues and expenses, and Asset Based Margins in Otter Tail's automatic adjustment clause consistent with this Order and the Amended Settlement Agreement.

7. No later than October 28, 2010, Otter Tail shall file compliance rates reflecting a net annual revenue decrease of at least \$450,000 for the removal of Economic Development Costs from revenue requirement. To implement this reduction in annual revenue, Otter Tail shall reduce rates to all rate classes and rate schedules in a flat proportion based on energy consumption for bills rendered on and after January 1, 2011.

8. The October 30, 2009 and November 6, 2009 filings are made part of the record.

PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner



Kevin Cramer
Chairman



Brian P. Kalk
Commissioner

STATE OF NORTH DAKOTA
BEFORE THE
PUBLIC SERVICE COMMISSION

Application of Otter Tail Corporation
d/b/a Otter Tail Power Company for
Authority to Increase Rates for Electric
Service in North Dakota

Case No. PU-08-862

And

In the Matter of Otter Tail Power Company's
Annual Filing for Renewable Resource
Cost Recovery Factor

Case No. PU-08-742

AMENDED SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between the North Dakota Public Service Commission Advocacy Staff ("Staff"), Otter Tail Corporation d/b/a Otter Tail Power Company ("OTP") and the Large Industrial Group ("LIG").¹ This Settlement Agreement resolves all outstanding issues in the above-captioned proceedings in a manner consistent with the public interest and will result in just and reasonable rates for OTP's retail electric operations in North Dakota.

BACKGROUND

These proceedings involve two different matters -- OTP's request to increase its retail rates to allow it to earn a reasonable return on equity and a request by OTP to recover through its Renewable Resources Rider costs associated with two wind projects -- one located near Lake Ashtabula and one located near Langdon, both in North Dakota.

The Rate Case

OTP sought to increase retail rates by \$6,084,003 or 5.14 percent. An interim rate increase was approved to take effect on January 2, 2009 in the amount of \$4,810,562 or 4.07 percent.

¹ The members of the LIG are Cargill, Incorporated, Tharaldson Ethanol Plant I, LLC, Goodrich Corporation, Bobcat Corporation, Prime Wood Inc., Cavendish Farms, Inc., Archer Daniels Midland Company, and ComDel Innovation Inc.

OTP's last North Dakota general rate case was in 1983. In 1987 OTP reduced its base rates by 4.27 percent as the result of the lower federal income tax rate in the Tax Reform Act of 1986 ("TRA 86"). This was a reduction of just over \$3 million annually. The North Dakota Public Services Commission ("Commission") also monitors and reviews regulated utilities' earnings based on their annual reports to the Commission. As a result of such reviews, OTP has either reduced its base rates or made one-time refunds to customers in seven years since its last rate case. In addition, for the five years 2001 through 2005, OTP operated under a Commission-approved Performance Based Ratemaking ("PBR") Plan. This PBR Plan called for OTP to refund to customers a share of earnings if its return on equity ("ROE") exceeded a set level. This resulted in a refund in 2002 based on 2001 financial and performance results. The following table summarizes OTP's rate reductions/refunds in North Dakota.

Table 1

History of rate reductions/ refunds in ND			
Year	Amount	Percent (4)	Note
1987	\$3,060,000	4.27%	(1)
1989	\$1,000,000	1.50%	(2)
1990	\$315,500	0.48%	(2)
1992	\$1,000,000	1.50%	(3)
1994	\$448,636	0.66%	(3)
1999	\$685,000	0.91%	(3)
1999	\$350,000	0.47%	(2)
2000	\$42,442	0.05%	(3)
2002	\$662,300	0.80%	(3)
(1) Reduction to base rates - TRA 86			
(2) Reduction to base rates			
(3) One-time refund			
(4) Percent of rates in effect at the time of the reduction			

In this current rate case, OTP identified three primary drivers for the need to request a rate increase. First, since the last rate case in 1983, operating costs, such as material, labor, pension, active medical and post-retirement medical have risen substantially. Second, OTP has experienced dramatic increases in fuel and purchased power costs, which currently are not being

fully recovered through the fuel clause adjustment (“FCA”) because certain customer classes are currently exempt from application of the FCA. Third, OTP has made substantial investments in infrastructure.

The Renewable Resources Rider Case

This is the first annual filing updating the costs to be recovered through the Renewable Resource Rider approved by Order dated May 21, 2008 in Case No. PU-06-466. That Order established the methodology for cost recovery for renewable energy generation projects, found OTP’s investment in the 40.5 MW Langdon Wind Energy Center (“Langdon”) to be prudent, and commenced recovery of costs associated with that project. In this current proceeding, OTP has requested a determination that its investment in the 48 MW Ashtabula Wind Energy Center (“Ashtabula”) was prudent (pursuant to NDCC § 49-05-16), and that OTP’s proposed 2009 Renewable Resource Adjustment factor in the Renewable Resource Rider is appropriate, based on the costs of Langdon and Ashtabula. OTP was granted a Certificate of Public Convenience and Necessity to construct and own Ashtabula (certificate number 5347, received by OTP on July 2, 2008) and the facility became operational in November 2008.

See Attachment A for a summary of the procedural history of these cases.

TERMS

The OTP, LIG and Staff (collectively “the Parties”) agree to the provisions as defined below and supported by Attachments A through E to this Settlement Agreement.

I. Rate Base and Revenue Requirements in the Rate Case

The Parties agree that for purposes of recovery in base rates, the value of OTP’s rate base, including property used and useful, for the service and convenience of the public in North Dakota is \$187,360,150. Also, as a result of the adjustments agreed to herein and described below, the Parties agree to an increase in OTP’s base electric rates for retail customers in North Dakota to ultimately yield an annual net retail sales and miscellaneous revenue increase of \$3,597,887 or 3.04 percent. The Parties agree that such increase is necessary to provide OTP a

just and reasonable rate of return on its property, used and useful, for the service and convenience of the public in North Dakota. As shown in Table 2 below and on Attachment B, the final rates will reflect an increase in base rates of \$6,824,405 offset by projected fuel clause reductions as a result of customer credits from wholesale asset-based margins, estimated at \$3,792,527. In addition, the Parties agree that OTP's proposal to recover \$1,000,000 in DSM and Conservation program costs in base rates should instead be considered in a separate proceeding with any Commission approved costs being recovered through a separate rate rider.

Table 2

	Base Rates	Fuel Rates		Overall Revenues
	\$6,824,405	Asset Based Margins	(\$3,792,527)	
		MISO Schedule 16 & 17 deferred costs	309,019	
		MISO Schedule 16 and 17 ongoing costs	256,990	
Total	\$6,824,405		(\$3,226,518)	\$3,597,887

An interim rate refund will be issued to customers for the difference between the interim rate increase placed into effect on January 2, 2009 and the Settlement Agreement amount, as reflected in Attachment C. (Attachment C reflects an estimated refund based on an assumed September 1, 2009 implementation of final rates—the actual refund amount will be calculated based on the implementation date set by the Commission). The interim rate refund will reflect the fact that wholesale asset-based margins were credited to the interim rate revenue requirement and will be credited to the fuel revenue requirement in final rates. The interim rate refund will also reflect the fact that MISO 16 and 17 costs were recovered in the interim rate revenue requirement and will be recovered through the fuel revenue requirement in final rates. See Attachment C for the calculation of the estimated interim rate refund and the estimated refund factor of 19.401 percent.

Following is a description of the specific test year adjustments agreed to in this Settlement Agreement (See also Attachment B).

A. Return on Equity

The Parties agree to a return on equity of 10.75 percent as outlined in the previous settlement with Staff and LIG. The adjustment reduces the original revenue request by \$831,539, and OTP agrees to share any earnings above 10.75 percent with customers (see Other Terms and Conditions for a full discussion of this sharing mechanism).

The Parties also agree that a 10.75 percent ROE will be used for purposes of determining interim rates in OTP's next electric rate case.

B. Depreciation

The Parties agree that the change in depreciation allocation method proposed by OTP should occur at this time (See Direct Testimony of Ms. Bernadeen Brutlag at 2-6). OTP proposed allocating Accumulated Depreciation and Depreciation Expense using the same allocation factors as are used for allocating Electric Plant in Service. In the past, these costs had been directly assigned to each jurisdiction. This change in allocation method would increase North Dakota revenue requirements by \$119,476. While parties agree that this allocation change should be accepted and used going forward, the increase in revenue requirements in this case will not be included, thus reducing the original revenue request by \$119,476.²

C. Regulatory Liability

Staff requested that amounts previously recovered in rates as a future cost of removal and retirement be treated as a regulatory liability (See Majoros Direct at 11-13). The Parties agree that, unless directed otherwise by the Commission, rate recovery -- past, present, and future -- for the removal and retirement of OTP utility property will be used solely for the retirement of OTP's utility property and recognized as a regulatory liability.

² The basis for the revenue requirements amount is shown in footnote 1 on Attachment B to this Settlement Agreement.

D. Wholesale margins

For purposes of determining the overall revenue requirement, the Parties agree to credit to ratepayers through the FCA 85 percent of all asset-based margins achieved by OTP. Passing these credits directly through the FCA as they are realized ensures that neither customers nor OTP will be disadvantaged by a non-representative margin forecast in the test year. OTP will, starting with the month of September 2009,³ include in its fuel clause adjustment calculation, the forecasted amount of wholesale margins for that month (i.e. September for the first month). A subsequent fuel clause adjustment calculation (estimated to occur two months after the forecasted month) will include any true-up needed to correct a prior forecast to reflect actual wholesale margins for the forecasted month. By sharing the gains on asset-based sales, the Parties recognize that OTP will have an incentive to maximize the benefit from these sales. With respect to non-asset based margins, the Parties agree to a fixed credit of \$560,000 to the base rate revenue requirement. This amount is based on an OTP cost study and reflects an amount that the Parties agree is in excess of the incremental cost of this activity and provides a reasonable contribution to the costs of non-asset based trading, including common overheads.

E. Miscellaneous Expense Adjustments.

The Staff had proposed several miscellaneous adjustments in the Direct Testimony of Mr. Majoros. The Settlement Agreement does not reflect those individual adjustments, but rather, the Parties agree that a reduction of the revenue requirement in the amount of \$158,000 is appropriate, \$50,000 of which represents a reduction to OTP's requested economic development expenses as described below.

F. Economic Development Costs

OTP requested that it be allowed to recover \$500,000 for economic development. The Parties agree that Economic Development is a prudent and reasonable expense that benefits OTP's ratepayers. However, the Parties also agree that the expense should be reduced to \$450,000.

³ Or the month in which final rates are implemented, if a different month than September.

G. DSM and Energy Conservation.

OTP was ordered by the Commission in Case No. PU-06-481 to file proposed DSM programs as a condition of receiving an advance determination of prudence of the Big Stone II facility. As a result, OTP submitted a proposed North Dakota Energy Efficiency Plan (EEP) in Case No. PU-09-72 and included in the rate case, Case No. PU-08-862, to recover approximately an additional \$1,000,000 in annual EEP costs in base rates.

Rather than include this expense in base rates, the Parties agree that any new EEP costs that may be approved by the Commission in Case No. PU-09-72 should be recovered through a separate rider or other accounting treatment. The parties also agree that in the event the Commission approves the recovery of any such costs through a rider that class allocations of such costs should be handled as described in Section III, below.

H. MISO 16 and 17 Costs.

OTP requested recovery of deferred and current MISO Schedule 16 and 17 costs -- the deferred portion of those costs have accrued since April 2005 (the start of MISO Day 2) for recovery in this rate case in accordance with a settlement approved by the Commission in Case No. PU-05-131. In this current case, OTP proposed recovering these deferred and current costs in base rates. No party challenged the reasonableness of these costs. Staff, however, advocated for recovering these costs through the FCA, as was recently approved for Xcel Energy in Case No. PU-07-776, instead of recovering them in base rates. The Parties agree that recovering these costs through the FCA is reasonable, given that, like all other MISO Day 2 charge types which are also recovered through the FCA, they are non-discretionary charges billed out by the MISO for administration of the MISO energy market. This adjustment decreases OTP's base rate increase by \$566,009, but it does not impact the overall revenue increase, since the recovery of these costs is just being moved from base rates to the FCA.

I. Other Necessary Adjustments

In addition to the agreed-upon reductions reflected above, making these adjustments to OTP's Cost of Service model also results in adjustments to the cash working capital (a reduction of \$7,266) and to jurisdictional allocations (a reduction of \$150,417).

II. Issues to be Addressed in OTP's Future Rate Cases

OTP will address the following issues in its next rate case and in future rate cases as indicated:

A. Benefits from Renewable Energy Credits

The Parties agree that in future rate cases OTP will credit the North Dakota jurisdiction with its proportionate share of the value from Renewable Energy Credits (RECs) based on the North Dakota allocated share of the costs of the assets used to produce the RECs.

B. Energy Costs Separate from Base Rates

The Parties agree that in its next rate case OTP will separate its energy costs from base rates. It is understood that this will give the appearance of much larger rate increases in future rate cases than is reflected in the overall change in customer bills.

C. Use of an E8760 Allocator.

The Parties agree that OTP should use an E8760 allocator in its next rate case for class cost of service study development purposes, and for the purposes of allocating fuel costs between classes.

D. Wind Farm Cost Recovery

The Parties Agree that in its next rate case OTP shall propose including the Ashtabula and Langdon wind farm costs in base rates.

III. Allocations and Rate Design for the Rate Case

The Parties agree that the class cost allocations for rate design purposes should be as reflected in Table 3, below:⁴

Table 3

Allocations as result of proposed revenue requirements settlement								
1	Class	Current Revenues	Amount of Increase	Percent Increase	A/B margin credit	MISO 16 & 17	Net Increase	Net % Increase
2	Residential	\$36,574,921	\$2,194,495	6.00%	(\$979,303)	\$146,154	\$1,483,847	4.06%
3	Farms	\$1,601,767	\$96,106	6.00%	(\$50,761)	\$7,576	\$52,921	3.30%
4	General Service	\$34,012,150	\$1,435,982	4.22%	(\$899,736)	\$134,280	\$548,025	1.61%
5	Large General Service	\$36,231,788	\$1,140,540	3.15%	(\$1,340,629)	\$200,080	(\$9)	0.00%
6	Irrigation	\$45,963	\$4,596	10.00%	(\$1,412)	\$211	\$3,395	7.39%
7	Lighting	\$2,095,668	\$419,134	20.00%	(\$49,011)	\$7,314	\$377,438	18.01%
8	OPA	\$967,569	\$135,460	14.00%	(\$36,492)	\$5,446	\$104,414	10.79%
9	Controlled Service Water Heating	\$1,185,332	\$118,533	10.00%	(\$42,447)	\$6,335	\$82,422	6.95%
10	Controlled Service Interruptible	\$4,744,402	\$1,186,100	25.00%	(\$351,046)	\$52,391	\$887,446	18.71%
11	Controlled Service Deferred	\$849,617	\$93,458	11.00%	(\$41,692)	\$6,222	\$57,988	6.83%
12	Total	\$118,309,177	\$6,824,405	5.77%	(\$3,792,527)	\$566,009	\$3,597,887	3.04%

These class allocations reflect the agreed-to adjustments to the base rate revenue requirement contained in this Agreement, and modification of OTP's originally proposed class allocations.

The Parties agree that it is appropriate that the LGS class not be allocated an overall increase in rates at this time, and that the impact of the current base rate allocation and asset based margin credit to the FCA would result in no increase for the LGS class (assuming historic levels of asset based margins). The Parties also agree that the LGS class would not have been allocated an overall increase in rates in this case even if EEP costs were recovered in this case (see Section I.G. of this Agreement). Therefore, if the Commission determines that it is appropriate for OTP to recover EEP costs through a rider in Case No. PU-09-72, or in any other case following this rate case and prior to OTP filing its next general rate case, then the Parties agree that those rider costs should be allocated to classes other than the LGS class, even if some or all of the EEP programs are found to benefit the LGS class.

⁴ The amounts reflected in Table 3 for "A/B margin credit" and "MISO 16&17" are based on historical amounts earned for asset based margins and for MISO schedules 16 & 17 charges, each of which will be reflected in the FCA going forward based on actual future amounts.

The Parties agree that rate schedules reflecting the following rate designs will result in a basis of charge to OTP's customers that is just and reasonable and without discrimination.

The Residential Rate shall be as follows:

2007 Revenue		Proposed Rev	Increase
\$31,114,448		\$32,796,171	5.40%

ND Residential Summary	Customer Charge	Monthly Minimum Bill	Facilities Charge	Energy Charge per kWh		
	per month	per month	per month	All Year	Summer	Winter
Current Rate						
Zone 1		\$4.74		First 1,000 kWh	\$0.08240	
Zone 6 and Cottages		\$5.65		Next 1,000 kWh	\$0.08737	
				Excess 1,000 kWh	\$0.05938	
				Water Heating Credit		-\$2.00
4 Proposed Rate	\$8.00	\$8.00		All kWh	\$0.08444	\$0.07863
Customer Charge, Seasonal Energy, Winter Declining Block		+Facilities		First 1,000 kWh		\$0.07173
No Facilities Charge			\$0.00	Excess		
				Water Heating Credit		-\$4.00

*Current Rates Include FCA

The Farm Service Rate shall be as follows:

ND Farm Summary		Current Rev	Proposed Rev	Increase
		\$1,514,276	\$1,605,133	6.00%

Customer Charge	Monthly Minimum Bill	Facilities Charge	Energy		
			per kWh Summer	Winter	All Year
	\$7.51 + \$0.71797 per kVA above 25 kVA				
Current Rates	\$7.51	na		1st 150: 0.08702	
				Next 1450: 0.06817	
				Excess: 0.05730	

Adjusted Rate	Cust + Fac	3-Phase Surcharge per Mo.		Energy	
		Overhead	Underground	first 1,600	Excess
Declining Block		<25 kVA	\$3.37	\$0.07642	\$0.06971
Seasonal Energy	25 kVA or more		\$3.93	\$0.06495	\$0.05925
Customer Charge		<25 kVA			
Facilities for 3ph		25 kVA or more	\$10.78		

*Current Rates Include FCA

The Residential Demand Control (RDC) Rate shall be as follows:

ND Residential Controlled Demand Summary		Current Rev.	Proposed Rev.	Increase				
		\$5,540,781	\$6,050,372	9.30%				
Current Rate	Description	Customer Charge per month	Minimum Bill per month	Facilities Charge per kW month	Charge per kWh		Demand Charge per kW per mo.	
					Summer	Winter	Summer	Winter
Current Rate	No Seasonality - 12-month Demand Ratchet	\$0.38	Customer Charge	\$0.00	\$0.04172	\$0.04172	per 12-mo. max \$3.69 \$7.32	
Rate 4	Seasonal with Flat Facilities Charge, with 12-month Winter Ratchet	\$18.38	Customer + Facilities Charge	Fixed Facilities \$0.00	All kWh: \$0.04627	\$0.04671	Winter Ratchet \$6.52 \$2.63	

*Current Rates Include FCA

The Large General Service Rate shall be as follows:

ND Large General Service- Sec, Prim, Trans. (Includes Pricing for LGS Off-Peak Rider)		current Rev	Proposed Rev	Increase				
		\$ 36,231,808	\$ 37,372,348	3.15% Increase				
SECONDARY	Current Rate	Customer Charge per month	Minimum Bill per month	Facilities Charge per annual reqt. kW (minimum 88 kw) per month	Energy Charge per kWh		Demand Charge per kW	
					Summer	Winter	Summer	Winter
SECONDARY	Current Rate	na	Demand Charge	All over 360 kWh per kW	\$0.04245		1st 100 kW of billing demand: \$8.33	
				First 700,000 kWh Excess kWh	\$0.05094		Excess kW of billing demand: \$6.60	
					\$0.04289			
Rate 3	Seasonal Energy, Load Factor Block, Facilities charge, Customer Charge, No Ratchet on Demand.	\$40.00	Cust. Charge				Summer: \$7.29	Winter: \$5.61
			+ facilities + demand charge					
			< 1000 kW	\$0.30	All Other	\$0.04715 \$0.04761		
			> 1000 kW	\$0.15	First 700,000	\$0.05115 \$0.05165		
PRIMARY	Current Rate	na	Demand Charge	All over 360 kWh per kW	\$0.04245		1st 100 kW of billing demand: \$8.04	
				First 700,000 kWh Excess kWh	\$0.05094		Excess kW of billing demand: \$6.51	
					\$0.04289			
Rate 3	Seasonal Energy, Load Factor Block, Facilities charge, Customer Charge, No Ratchet on Demand.	\$40.00	Cust. Charge	\$0.11			Summer: \$7.24	Winter: \$5.57
			+ facilities + demand charge					
					All Other	\$0.04866 \$0.04737		
					First 700,000	\$0.05095 \$0.05141		
TRANSMISSION	Current Rate	na	Demand Charge	All over 360 kWh per kW	\$0.04245		1st 100 kW of billing demand: \$7.23	
				First 700,000 kWh Excess kWh	\$0.05094		Excess kW of billing demand: \$5.65	
					\$0.04289			
Rate 3	Seasonal Energy, Load Factor Block, Facilities charge, Customer Charge, No Ratchet on Demand.	\$40.00	Cust. Charge	\$0.00			Summer: \$5.88	Winter: \$4.73
			+ facilities + demand charge					
					All Other	\$0.04574 \$0.04602		
					First 700,000	\$0.04974 \$0.04996		

The Large General Service - Time of Day Rate shall be as follows:

North Dakota Large General Service - Time-of-Day 6-16-09

			SECONDARY	PRIMARY	SUBTRANSMISSION	
			LGS TOD with Customer and Facilities Charges	LGS TOD with Customer and Facilities Charges	LGS TOD with Customer and Facilities Charges	
			\$ 60.00	\$ 60.00	\$ 60.00	
			\$325 + Facilities + Cust. Chg	\$325 + Facilities + Cust. Chg	\$325 + Facilities + Cust. Chg	
Cust. Charge	per month					
Monthly Min. Bill	per month					
Facilities Charge	per annual max. kW (min. 80 kW)					
	< 1,000 kW		\$ 0.30	n/a	n/a	
	>= 1,000 kW		\$ 0.15	n/a	n/a	
	All kW		n/a	\$ 0.11	\$ 0.00	
Energy Charge	per kWh	Summer	PK	\$ 0.08150	\$ 0.08115	\$ 0.09900
			SH	\$ 0.06247	\$ 0.06221	\$ 0.09088
			OP	\$ 0.03721	\$ 0.03709	\$ 0.03636
			PK	\$ 0.07314	\$ 0.07278	\$ 0.07083
			SH	\$ 0.05049	\$ 0.05021	\$ 0.05752
			OP	\$ 0.04199	\$ 0.04181	\$ 0.04070
		Winter	PK	\$ 5.75	\$ 5.71	\$ 4.86
			SH	\$ 1.59	\$ 1.57	\$ 1.06
			OP	\$ -	\$ -	\$ -
			PK	\$ 4.42	\$ 4.39	\$ 3.74
			SH	\$ 1.22	\$ 1.21	\$ 0.82
			OP	\$ -	\$ -	\$ -
Demand Charge	per kW	Summer	PK	\$ -	\$ -	\$ -
			SH	\$ -	\$ -	\$ -
			OP	\$ -	\$ -	\$ -
		Winter	PK	\$ -	\$ -	\$ -
			SH	\$ -	\$ -	\$ -
			OP	\$ -	\$ -	\$ -

The Parties agree that the Large General Service – Time of Day Rate will be introduced on an experimental basis. This rate will be re-evaluated in OTP’s next rate case.

Except as reflected above, the rate design shall be as OTP proposed in its request, modified to reflect adjustments to the revenue requirement and class allocations described in this Agreement.

- The Parties agree to the filed tariff changes proposed by OTP’s initial filing, as amended to reflect the change in class allocations and the change in the revenue requirement. In addition, the Parties agree to the following two changes from OTP’s original proposal for General Rules and regulations. Section 1.02 “Application for Service” shall be revised to add the following sentence to the end of the section: “The Company, if reasonable under the circumstances, may consent to a customer changing rates before taking service for the minimum one-year period described above, and provided the customer pays any charges that may be required under each rate, including for example, “ratchet” charges or other charges relating to discontinuance of service.”
- A New Section shall be added to the General Rules and Regulations that reads as follows: “Upon signing a confidentiality agreement, a General Service customer shall be provided with the Company’s most recent forecasts for fuel clause adjustments and rider adjustments.”

- Several typographical errors and corrections necessary for clarity and correct application of the rates were discovered while reviewing the rate schedules during the course of this case. Changes to the rate schedules to correct these errors are reflected on Attachment D.

The parties agree that no other changes shall be made to OTP's General Rules and Regulations rate schedule.

OTP shall file compliance tariff pages setting forth the revised electric rates and tariffs provided by this Settlement Agreement at least thirty (30) days prior to the effective date of final rates.

IV. Interim Rates

The Parties agree the interim rates will remain in effect for bills rendered to all customer classes until final rates are implemented. Refunds will be issued to customers within ninety (90) days of the implementation of final rates for the difference between the interim revenue level and the final revenue level agreed to in this Settlement. Based on current information (and using September 1, 2009, as the assumed date for implementation of final rates), the Parties estimated that customers would receive \$665,340 in base rate refunds and interest of \$7,702 for a total estimated refund obligation of \$673,042 (see Attachment C). The amount of refund will be determined by multiplying the interim rate refund factor by the interim retail revenues received from each customer.

V. Fuel Clause Adjustments

Currently, OTP uses a 12 percent line loss factor in calculating the retail sales used in calculating the FCA. The Parties agree that effective with the first month in which bills are rendered containing final rates OTP will use actual retail sales in calculating the FCA. The base cost of energy will also be determined using actual retail sales. This change has no effect on either the interim or final rate revenue requirement and is to be applied prospectively.

The Parties agree that effective January 6, 2009 when the MISO ASM became effective, OTP will include both revenues and expenses associated with the MISO ASM in the FCA calculation, and thereby all MISO ASM margins will be reflected in the FCA.

The Parties agree that Asset Based Margins (see the earlier discussion) will be credited to the FCA based on a forecast for the current time period, and trued up based on actual margins as soon as reasonably practical after the costs associated with the revenues are determined and in this manner the margins will be treated as credits offsetting fuel costs.

VI. The Renewable Resource Rider

A. Revenue Requirement

The Parties agree that the Commission should issue an Order finding OTP's investment in the Ashtabula Wind energy Center is prudent, and approving the 2009 Renewable Resource Cost Recovery Rider as filed. The Parties also agree that OTP shall file a new Renewable Resource rate to be effective for bills rendered on and after the date final rates are implemented.⁵ This amended Renewable Resource rate will reflect the following changes in the revenue requirement used to determine the Renewable Resource rate, which changes shall be effective on and after the date final rates are implemented:

- The ROE will be reduced from 11.25 percent to 10.75 percent.
- OTP has been recovering previously unrecovered 2008 costs under the current 2009 rider rate adjustment. Effective with the implementation of final rates, OTP will remove the remaining unrecovered balance from the revenue requirement. The remaining unrecovered balance will be recovered over 48 months, beginning with the implementation of OTP's 2010 Annual Renewable Resource Cost Recovery Rate ("the 2010 Renewable Cost Recovery"). OTP will also be allowed to add a carrying cost of 8.62 percent to the unamortized balance starting on the date the above-referenced unrecovered balance is removed and continuing until

⁵ The calculation of an estimated 2009 Renewable Resource rate using an assumed date of September 1, 2009, consistent with the terms of this Agreement is reflected on Attachment E.

the completion of the 48 month period, as it does for any unrecovered tracker balance.

- OTP had proposed partially levelizing the Production Tax Credit (“PTC”) over a 25-year period to smooth the effect of losing the PTC after it expires in ten years. The Parties agree that the PTC should not be partially levelized as proposed. Instead, the PTC credits will be estimated and reflected in the renewable resource tracking accounts based on anticipated actual credits for each year and flowed through as a credit to the Renewable Resource Rider during the year in which the payments are received. To the extent the actual PTC credits are different from the amount anticipated, the difference will be trued-up in the Rider’s tracker account.

B. Cost Allocation to Classes

OTP’s 2010 Renewable Cost Recovery revenue requirement will be allocated between the customer classes with 20 percent allocated based on demand and 80 percent allocated based on energy. Within the LGS class, that classes’ revenue allocation will be collected through both a demand and energy charge using the same 20 percent demand, 80 percent energy allocation. The 20 percent is based on using MISO’s capacity accreditation percentage for wind. MISO is expected to amend this initial determination based on studies it is currently performing, and the Parties agree that the allocation factor used by OTP will be adjusted as necessary to correspond with the weighted average level of capacity approved by MISO for the projects being recovered through the Renewable Resource Rider.

C. Billing Treatment

The Parties agree that effective with final rates OTP’s Renewable Cost Recovery rate will be combined with the fuel clause adjustment on customer bills to show a single Energy Adjustment.

D. State Allocation Factor

OTP agrees to monitor its E2 allocation factor and address in its annual Renewable Cost Recovery filings any material changes that may occur to that allocation factor.

VI. OTHER TERMS AND CONDITIONS

A. Customer Refunds for Earnings Above Authorized ROE

The Parties agree to an earnings-sharing mechanism that will result in customer refunds if OTP's net income exceeds a 10.75 percent ROE for its North Dakota electric operations.

If OTP earns in excess of 10.75 percent ROE during the 2009 or 2010 calendar years, OTP will refund to customers revenues corresponding to earnings as shown below:

- 50 percent of earnings in the calendar year above 10.75 percent up to and including 11.25 percent; and
- 75 percent of earnings in the calendar year above 11.25 percent.

Earnings sharing refunds would be applied to customer accounts as a one-time bill credit as soon as practical on or after July 1 of the following calendar year.

B. Rate Moratorium

The Parties agree to a moratorium on electric base rate increases until 2011 for OTP's North Dakota operations. This moratorium does not preclude OTP from submitting a rate application for electric rates prior to 2011, but no change in customer rates would be implemented before January 1, 2011.

C. Basis of Settlement Agreement

It is agreed this Settlement Agreement is a negotiated settlement agreement subject to approval by the Commission. Except for the purpose of setting interim rates and the establishment of a regulatory liability for amounts recovered in rates for removal and

retirement, the Settlement Agreement does not establish any principle or precedent, nor adopt or recommend any specific type or amount of expense or rate base, for this or any future proceeding.

D. Effect of the Settlement Negotiations

It is understood and agreed that all offers of settlement and discussions related to this Settlement Agreement are privileged and may not be used in any manner in connection with proceedings in this case or otherwise, except as provided by law. In the event the Commission does not approve this Settlement Agreement, it shall not constitute part of the record in this proceeding and no part thereof may be used by any party for any purpose in this case or in any other.

E. Applicability and Scope

This Settlement Agreement shall be binding on the Parties, and their successors, assigns, agents, and representatives. Consistent with the Commission's settlement guidelines, this Settlement Agreement does not set policy or overturn precedent. This Settlement Agreement shall not in any respect constitute an agreement, admission or determination by any of the Parties as to the merits of any specific allegation or contention made by the Parties in this proceeding.

F. Effective Date

This Settlement Agreement shall be effective on the date of the Commission Order approving the Settlement Agreement. The revised rates and tariff provisions agreed to by this Settlement Agreement shall be effective for all bills rendered on and after a date that shall be set by the Commission Order approving the Settlement Agreement. The parties prefer that the effective date of final rates shall be the first day of a calendar month.

G. Modification

If the Commission Order modifies or conditions approval of this Settlement Agreement,

it shall be deemed terminated if either Party files a letter with the Commission within three (3) business days of the date of such Order stating that a condition or modification to the Settlement Agreement is unacceptable to such Party.

CONCLUSION

The Parties have agreed to the forgoing terms to resolve the contested issues in the electric rate case proceeding and the Renewable Resource Rider proceeding. These terms are a result of negotiations between the Parties, are in the public interest and will result in reasonable electric rates. For these reasons, the Parties urge the Commission to approve the Settlement Agreement.

[Signature Pages Follow]

Otter Tail Corporation, d/b/a Otter Tail Power Company

By: Thomas R. Brause
Thomas R. Brause
Vice President Administration

Dated this 5th day of Oct 2009.

North Dakota Public Service Commission Staff

By: Annette Bendish
Annette Bendish
Counsel to Advocacy Staff

Dated this 2 day of October 2009.

Large Industrial Group

By: 
Richard Savelkoul

Dated this 05 day of October 2009.

Procedural History

Case No. PU-08-862

On November 3, 2008, OTP filed a Notice of Change in Rates for Electric Service (“Notice”) with the Commission, based on a historical 2007 test year, with rates to become effective December 3, 2008 unless they were suspended. The Notice proposed an increase in electric retail and miscellaneous base rates of \$6,084,003, or approximately a 5.14 percent overall increase in revenues. Filed with the Notice were revised tariffs, direct testimony by nine witnesses, exhibits, and supporting statements.

Concurrent with the Notice, the Company submitted an Alternative Petition for Interim Rates. The proposed interim increase, which impacted only base rates, was for \$4,810,562, or 4.07 percent, to be effective January 2, 2009 (60 days from filing) in the event the Commission suspended the proposed general increase. The proposed interim increase and rate design were submitted pursuant to the criteria set forth in N.D.C.C. § 49-05-06.

On November 20, 2008, the Commission issued an order suspending the Company’s general rate increase application and set the matter for investigation and hearing.

On December 3, 2008, the Commission issued an order allowing an interim base rate increase of \$4,810,562, or 4.07 percent, to be placed into effect January 2, 2009, subject to refund.

On December 17, 2008, the Commission issued a Notice of Public Input Sessions and Intervention Deadline announcing Public Input Sessions to be held via interactive television on February 10, 2009 and March 23, 2009 at 12:00 noon central time at various locations in Devils Lake, Jamestown, Washburn, Wahpeton, and Bismarck. Members of the public were invited to appear and participate in the informal discussion. The notice also set forth a deadline of February 27, 2009 for parties to indicate their interest in participating in the case.

On December 30, 2008, the Large Industrial Group, consisting of the Goodrich Corporation, Cargill Corporation, Cavendish Farms, Inc., Archer Daniels Midland Company, ComDel Innovation and Tharaldson Ethanol LLC, filed a Petition to Intervene with the Commission. The Large Industrial Group was the only party to intervene.

On January 14, 2009, the Commission ordered the hearing in Case No. PU-08-742, for the 2009 Renewable Resource Cost Recovery Rider and an

advance determination of prudence for the Company's 48 MW ownership share in the Ashtabula Wind Energy Center, be combined with the hearing in the rate case, Case No. PU-08-862.

On February 20, 2009, the Company entered into a partial settlement agreement with the North Dakota Public Service Commission Advocacy Staff ("Staff"). The parties agreed to an overall rate of return ("ROR") of 8.62 percent, and a return on equity ("ROE") of 10.75 percent, for the Company. The Large Industrial Group did not oppose the partial settlement.

On March 11, 2009, the Commission issued a Notice of Hearing, Notice of Continued Hearing and Notice of Public Input Session which continued the hearing to May 11, 2009, and set forth the following issues to be considered in this case:

1. What is the value of Otter Tail's property, used and useful, for the service and convenience of the public in North Dakota?
2. What is Otter Tail's rate of return on its property, used and useful, for the service and convenience of the public in North Dakota?
3. What is a just and reasonable rate of return on Otter Tail's property, used and useful, for the service and convenience of the public in North Dakota?
4. What rates and charges are necessary to provide a just and reasonable rate of return on Otter Tail's property, used and useful, for the service and convenience of the public in North Dakota?
5. Are Otter Tail's proposed rate schedules designed in such a manner that they result in a basis of charge to its customers that is just and reasonable without discrimination?
6. Is Otter Tail's investment in the Ashtabula Wind Energy Center prudent?
7. Should the Commission approve the 2009 Renewable Resource Cost Recovery Rider as filed?
8. Should Otter Tail be permitted to recover any generation costs through a Rider?
9. Other relevant information or proposals concerning the proceedings.

The February 10, 2009 public input session was cancelled due to inclement weather. On March 23, 2009, the Commission conducted public input sessions. The sessions utilized

interactive video-conferencing capabilities to include participants in Devils Lake, Jamestown, Washburn and Bismarck. The Wahpeton location was rescheduled for April 13, 2009 due to flooding conditions within the City of Wahpeton.

On April 1, 2009, the Large Industrial Group filed Direct Testimony prepared by two consultants, from KM Energy Consulting, LLC and LLS Resources, LLC.

On April 6, 2009, Staff filed Direct Testimony prepared by two consultants from Snavelly King Majoros O'Connor & Bedell, Inc.

On April 23, Otter Tail filed a request to suspend the procedural schedule in order for the parties to finalize resolution of all disputed issues in this matter.

On April 29, 2009 the Commission issued its Order suspending the procedural schedule and continuing the hearing in this matter.

Otter Tail Power Company
 2007 Test Year; Case No. PU-08-862
 PSC Staff Settlement Worksheet

Attachment B

Line No.	Description	Dollars	% of Revenue
1	Initial Filing	\$6,084,003	5.14%
2	Cost of Capital Settlement Including Moratorium Until January 1, 2011	(831,539)	-0.70%
3			
4	Adjustments to original request:		
5	DSM and Energy Conservation (Separate Rider)	(\$1,000,000)	
6	Net Impact of change from directly assigned to allocated depreciation methods (1)	(119,476)	
7	MISO Schedule 16 & 17 amortization of deferred amount (move to FCA)	(309,019)	
8	MISO Schedule 16 & 17 on-going costs (move to FCA)	(256,990)	
9	OTP package proposal for miscellaneous adjustments (2)	(158,000)	
10	Remove expenses associated with Non-Asset Based Margins	(560,000)	
11	Move Asset-Based Margins to the FCA (3)	4,133,109	
12	Cash working capital change	(7,266)	
13	Allocation impact of above adjustments	<u>(150,417)</u>	
14	Settlement position on Base Rates	\$6,824,405	5.77%
15			
16	Adjustments for determining actual rate increase:		
17	Asset-Based Margins credit to the FCA (4)	(3,792,527)	
18	MISO Schedule 16 & 17 - amortization of deferred costs moved to FCA	309,019	
19	MISO Schedule 16 & 17 - ongoing costs moved to FCA	<u>256,990</u>	
20	Adjustments through FCA	<u>(\$3,226,518)</u>	-2.73%
21			
22	Overall increase in rates	\$3,597,887	3.04%

(1) Net revenue requirements impact of depreciation adjustments

Revenue requirements impact	
Rate base (ND)	(\$1,053,257)
ROR per settlement	<u>8.62%</u>
Return on rate base	(\$90,790.75)
Tax conversion factor	<u>1.645413</u>
Revenue requirements from rate base change	(\$149,388)
Depreciation expense (ND)	<u>268,864</u>
Net revenue requirements (increase)	<u>\$119,476</u>

(2) Reflects a package adjustment for miscellaneous issues.

(3) Five-year average of margins.

(4) Assumes 85%/15% FCA crediting going forward. This amount is 85% of 2007 actual asset based margins of \$4,461,797.

Interim Refund Summary

Actuals through April 30, 2009 and projection for May, June, July and August 2009

Line No.	Test Year Basis	
1	Initial Ordered Interim Increase	\$4,810,562
2	Final Ordered Increase	\$6,824,405
3	Adjustments to make settlement comparable to interim	
4	Asset-based margins 85 percent moved to the FCA	(\$3,513,143)
5	MISO schedule 16 & 17 amortization deferred costs moved to FCA	309,019
6	MISO schedule 16 & 17 ongoing costs moved to FCA	256,990
7	Adjusted final Ordered Increase Line 2 + Line 4 + Line 5 + Line 6	\$3,877,272
8	Test Year Refund Line 1 - Line 7	\$933,290
9	Interim Refund Factor Line 8 / Line 1	19.401%

Actual Basis		
10	Interim Increase Collected Attachment C, Page 2	\$3,429,434
11	Actual Ordered Interim Increase Line 10 - Line 12	\$2,764,094
12	Refund Obligation (without interest) Line 9 * Line 10	\$665,340
13	Interest Attachment C, Page 3	\$7,702
14	Total Refund Obligation Line 12 + Line 13	\$673,042

Interim Refund Information by Customer Class and month
 Actuals through April 30, 2009 and projection for May, June, July and August 2009

Customer Class	Interim Revenue Collected	Refund Factor	Refund Obligation w/o interest
Residential	\$1,117,624	19.401%	\$216,829
Farm	\$47,664	19.401%	\$9,247
General Service	\$990,820	19.401%	\$192,228
Large General Service	\$939,960	19.401%	\$182,360
Irrigation	\$1,293	19.401%	\$251
Area and Street Lighting	\$57,433	19.401%	\$11,143
OPA	\$29,449	19.401%	\$5,713
Water Heating	\$31,357	19.401%	\$6,084
Controlled Service Interruptible	\$179,823	19.401%	\$34,887
Controlled Service Deferred	\$34,009	19.401%	\$6,598
Total	\$3,429,434	19.401%	\$665,340

Month	Interim Revenue Collected	Refund Factor	Refund Obligation w/o interest
January-09	\$530,469	19.401%	\$102,915
February-09	\$470,020	19.401%	\$91,188
March-09	\$447,008	19.401%	\$86,723
April-09	\$437,216	19.401%	\$84,824
May-09	\$375,192	19.401%	\$72,791
June-09	\$372,946	19.401%	\$72,355
July-09	\$396,891	19.401%	\$77,000
August-09	\$399,692	19.401%	\$77,544
Total	\$3,429,434		\$665,340

Interim Refund - Interest Calculation

Actuals through April 30, 2009 and projection for May, June, July and August 2009

A	B	C	D=B+C	E=(B+D)/2	F	G	H=(E*F*G)/365
Interim Rates		Interest Calculation					
Billing month	Beginning balance	Difference	Ending balance	Average balance	Number of days	Annual interest ¹	Monthly interest
January - 2009	\$0	\$102,915	\$102,915	\$51,458	31	3.25%	\$142
February - 2009	\$103,058	\$91,188	\$194,245	\$148,651	28	3.25%	\$371
March - 2009	\$194,616	\$86,723	\$281,339	\$237,978	31	3.25%	\$657
April - 2009	\$281,996	\$84,824	\$366,820	\$324,408	30	3.25%	\$867
Subtotal Actual		\$365,650					\$2,036
Projection for May, June, July and August 2009							
May - 2009	\$367,686	\$72,791	\$440,477	\$404,082	31	3.25%	\$1,115
June - 2009	\$441,592	\$72,355	\$513,947	\$477,770	30	3.25%	\$1,276
July - 2009	\$515,223	\$77,000	\$592,224	\$553,723	31	3.25%	\$1,528
August - 2009	\$593,752	\$77,544	\$671,296	\$632,524	31	3.25%	\$1,746
September - 2009	\$673,042		\$673,042	\$673,042	30	3.25%	\$1,798
Subtotal Projection		\$299,689					\$5,666
Total		\$665,340					\$7,702
Total Principal and Interest							\$673,042

¹ Prime interest rates are from the Federal Reserve Statistical Release H15 - Bank Prime Loan - Monthly
http://www.federalreserve.gov/releases/h15/data/Monthly/H15_PRIME_NA.txt

List of Changes to Rate Schedules to Correct Typographical Errors and to Accurately Describe Appropriate Application of the Rates.

1. North Dakota Index – page 5 of 5, heading for Section 15.00, change the word “Minnesota” to “North Dakota”.
2. Section 10.01 – General Service under 20 kW – In the Terms and Conditions section, strike the sentence “A Customer with a billing demand of less than 20 kW for 12 consecutive months will be given the option of returning to the Small General Service schedule (Section 10.01).” This change is necessary to clarify the requirements of taking service under this rate schedule.
3. Section 10.02 – General Service – 20 kW and Greater – The following changes provide clarity to the requirements of taking service under this rate schedule and how the facilities charge is determined and billed each month and is consistent with how this rate was designed.
 - a. In the Application of Schedule, added the following phrase to the end of the first sentence in this section: “, with a measured demand of at least 20 kW within the most recent 12 months.”
 - b. In the Terms and Conditions section, strike the phrase “given the option of taking” and add the phrase “required to take” to the following sentence (as shown in strike-underline format): “A Customer with a billing demand of less than 20 kW for 12 consecutive months will ~~be given the option of taking~~ required to take service under the Small General Service schedule (Section 10.01).
 - c. In the Determination of Facilities Charge section, add the following phrase to the end of the last sentence in this section: “, but in no event will the measured demand be considered less than 20 kW.”
4. Section 10.03 – Large General Service – The following changes provide clarity to how the facilities and demand charges are determined and billed each month and are consistent with how this rate was designed.
 - a. Monthly Minimum Charge – Replaced the \$240 in the Monthly Minimum Charge with a demand charge based on a minimum of 80 kW. This is how this rate was historically billed and is consistent with how this rate was designed.
 - b. Determination of Facilities Charge section, add the phrase “greater of 80 kW of the” to the following sentence (as shown in strike-underline format): “The monthly measured demand will be based on the greater of 80 kW or the maximum 15 consecutive minute period measured by a suitable demand meter for the month for which the bill is rendered. The Facilities charge demand will be based on the largest of the most recent 12 monthly measured demands.”
 - c. Determination of Demand Charge – Added the following section
“DETERMINATION OF BILLING DEMAND: The billing demand shall be greater of 80 kW or the maximum kW as measured by a suitable demand meter for any period of 15 consecutive minutes during the month for which the bill is rendered adjusted for Excess Reactive Demand.”

- d. Remove the Special Billing Demand section. This provision has not been used for many years and it was Otter Tail's intent to remove this provision in Otter Tail's initial filing.
5. Section 10.04 – Commercial Service – Time of Use – The following changes provide clarity to the requirements of taking service under this rate schedule and how the facilities charge is determined and billed each month and is consistent with how this rate was designed.
 - a. Application of Schedule – Add the following phrase to the end of this section: “, with a measured demand of at least 20 kW within the most recent 12 months.”
 - b. Replaced the customer specific facilities charge with a Facilities Charge based on demand.
 - c. Added a Terms and Conditions section to provide clarity to the requirements of taking service under this rate schedule.
 - d. Removed the Contract Period and Agreement section. This change is the result of moving to a Facilities Charge based on demand. The contract period for this rate schedule is based on the contract period as required by Section 1.02 of the General Rules and Regulations.
 - e. In the Determination of Demand Section, changed the word “during” with the word “for” to the following sentence (as shown in strike-underline format): “The billing demand shall be the maximum demand in kW registered over any period of one hour ~~during~~ for the month the bill is rendered.”
 - f. Added a Determination of Facilities Charge section. This change is necessary due to changing to a facilities charge based on demand. “DETERMINATION OF FACILITIES CHARGE: The monthly measured demand will be based on the maximum demand in kW registered over any one-hour period by a suitable demand meter for the month for which the bill is rendered. The Facilities charge demand will be the greater of 20 kW or the largest of the most recent 12 monthly measured demands.”
6. Section 10.05 – Large General Service – Time of Day –
 - a. On page 1 of 4, added back in the Description box, which includes the types of service and rate numbers. The Description box was inadvertently omitted from the rate schedule in Otter Tail's initial filing.
 - b. In the Application of Schedule section changed the first sentence in this section as shown in strike-underline format: “This schedule is applicable to nonresidential Customers with ~~an existing load~~ measured demand of at least 80 kW, within the most recent 12 months.” This change provides clarity to the requirements of taking service under this rate schedule.
 - c. Changed the Determination of Facilities Charge section as shown in strike-underline format: “The monthly measured demand will be based on the maximum ~~15 consecutive minute period measured~~ demand in kW registered over any one-hour period by a suitable demand meter for the month for which the bill is rendered. The Facilities charge demand will be

~~based on the greater of 80 kW or the largest of the most recent 12 monthly measured demands.~~

- e.d. Remove the Special Billing Demand section. This provision has not been used for many years and it was Otter Tail's intent to remove this provision in Otter Tail's initial filing.
7. Section 14.04 – Controlled Service Interruptible Load – CT Metering Rider –
- a. Under the Availability section in the second paragraph under Option 2, added the phrase “within the most recent 12 months.” to the following sentence (as shown in strike-underline format): “During the control period the amount of ancillary load shall not exceed 5% of the metered maximum demand measured during any period, within the most recent 12 months.” This change only affects the timing of when our Customer Information System (“CIS”) would flag a meter for further investigation by our Customer Service Centers.
- b. Under the Determination of Control Period Demand – Option 2 only – we removed the demand ratchet to reflect how this rate was designed, so we removed the following phrases from this paragraph: “the greater of: 1)” and “or 2) the maximum metered kW during the control period established during the preceding 11 months.” These changes are shown in the following sentence in strike-underline format: “The billing demand measured during the control period for which the bill is rendered shall be ~~the greater of: 1) the maximum metered kW for any period of 15 consecutive minutes during the control period or 2) the maximum metered kW during the control period established during the preceding 11 months.~~”
8. Section 13.00 – Mandatory Riders – Applicability Matrix – On page 1 of 2 changed “Energy Efficiency Partnership (EEP) Cost Recovery Rider” to “Renewable Resource Cost Recovery Rider.”
9. Section 14.04 – Controlled Service Interruptible Load – CT Metering Rider – In order to properly collect and bill for kWh and demand for Option 2, added control period and uncontrolled period rate codes for this option. Also added the phrase “(with short duration cycling)”, which are for rate codes 169 and 269.

Revised and updated Renewable Resource Rider Cost Recovery Factor effective September 2009 based on the following:

- 1 Remove partial smoothing of PTC; instead credit PTC to tracker account as earned
See Attachment E, pages 2 and 3 of 6 for details
- 2 Remove uncollected portion of 2008 true-up amount and carrying charge from tracker for 2009 as shown in August 29, 2008, filing, and amortize the amount over 48 months beginning with next cost recovery period.
See Attachment E, pages 4 and 5 of 6 for details

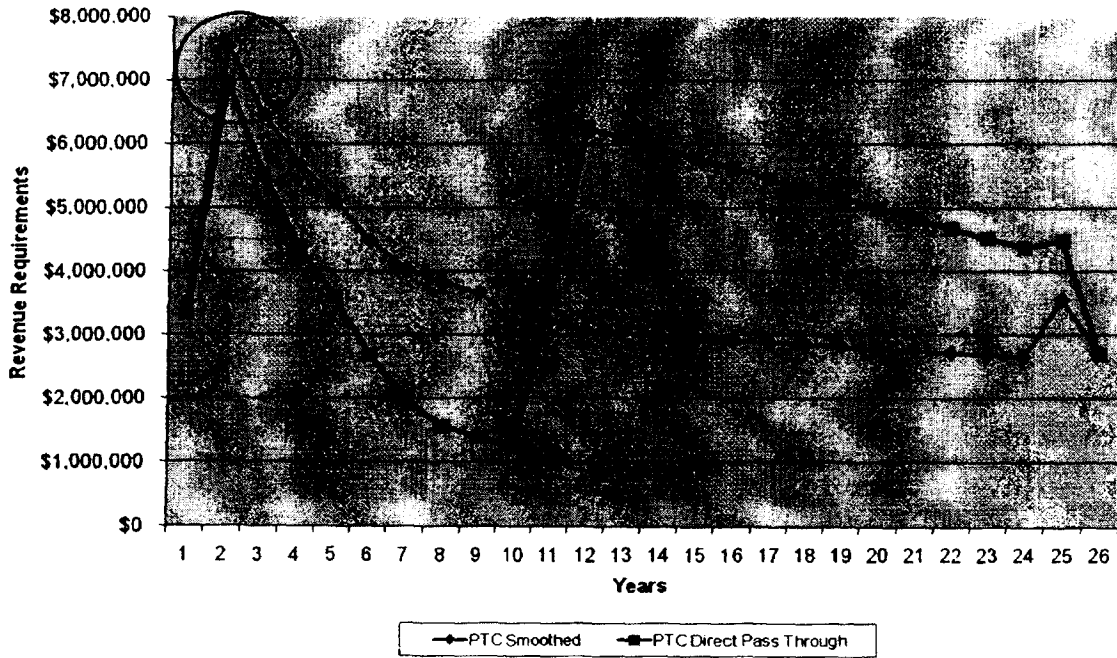
Uncollected 2008 True-up revised to reflect PTC change	\$622,888
Divided by	
Monthly amortization	48 months
	\$12,977

- 3 Use ROE stipulated in general rate case (reduce ROE from 11.25% to 10.75% effective with final rates)
See Attachment E, page 6 of 6 for details

Impact of each change listed above:	<u>cents/kWh</u>
Rate requested in August 29, 2008, filing	0.510
Impact of removing PTC smoothing	(0.039)
Impact of removing uncollected 2008 true-up from tracker	(0.085)
Impact of reducing ROE to 10.75% on September 1, 2009	(0.014)
Revised Renewable Resource Rider Cost Recovery Factor	<u><u>0.372</u></u>

Otter Tail's annual filing proposed to smooth the PTC treatment by partially deferring the credit to eliminate the increase in revenue requirements that occurs after the PTC ends. That partial smoothing was used to calculate the Renewable Resource Adjustment rate currently in effect. Otter Tail now agrees, however, to credit the PTC directly to the Tracker Account as it is earned or forecast to be earned. The calculations shown on Attachment E, page 3 of 6, relate to the difference circled on the chart below.

PTC Treatment



Impact of Reducing Return on Rate Base from 11.25% to 10.75%
 Effective September 1, 2009

Line #	Month	Langdon		
		Revenue Requirements @11.25%	Revenue Requirements @10.75%	Difference
1	September	\$213,298	\$205,008	(\$8,290)
2	October	213,298	205,008	(8,290)
3	November	213,298	205,008	(8,290)
4	December	213,298	205,008	(8,290)
5		<u>\$853,192</u>	<u>\$820,032</u>	<u>(\$33,160)</u>
6				
7				
8				
9	Month	Ashtabula		
		Revenue Requirements @11.25%	Revenue Requirements @10.75%	Difference
10				
11	September	\$366,234	\$353,913	(\$12,321)
12	October	366,234	353,913	(12,321)
13	November	366,234	353,913	(12,321)
14	December	366,234	353,913	(12,321)
15		<u>\$1,464,935</u>	<u>\$1,415,652</u>	<u>(\$49,282)</u>
16				
17	Total reduction in revenue requirements			(\$82,442)
18				
19	Estimated Sales Sept-Dec 2009 (MWH)			601,981
20				
21	Impact on Renewable Resource Adjustment rate (cents/kWh)			(0.014)